Permit #: 28. 9947-01

Effective Date: Draft

Expiration Date: Draft

SOUTH DAKOTA DEPARTMENT OF

ENVIRONMENT AND NATURAL RESOURCES

MINOR AIR QUALITY OPERATING PERMIT

Under the South Dakota Air Pollution Control Regulations

Pursuant to Chapter 34A-1-21 of the South Dakota Codified Laws and the Air Pollution Control Regulations of the State of South Dakota and in reliance on statements made by the owner designated below, a permit to operate is hereby issued by the Secretary of the Department of Environment and Natural Resources. This permit authorizes such owner to operate the source unit(s) at the location designated below and under the listed conditions.

A. Owner

1. Company Name and Mailing Address

Berry Plastics Corporation 1800 North M Avenue Sioux Falls, South Dakota 57104

2. Actual Source Location if Different from Above

Same as above

3. Permit Contact

Chuck Buchheim, Safety Technician (605) 334-0334

4. Facility Contact

Chuck Buchheim, Safety Technician (605) 334-0334

5. Responsible Official

Timothy Leasure, Plant Manager (605) 334-0334

- B. Permit Revisions or Modifications
 - March 1, 2007 Minor permit amendment to add four inkjet printers to Unit #2.
 - December 17, 2007 Minor permit modification to add one Bellmark printer to Unit #2.
 - April 2010 Minor permit modification to add four extrusion lines to Unit
 # 1 and three Bellmark printers and one Matthew printer to Unit #2.

C. Type of Operation

Manufactures polyethylene bags and custom-blend film.

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1.0 STANDARD CONDITIONS

Construction and operation of source. In accordance with Administrative Rules of South Dakota (ARSD) 74:36:04:15(9), the owner or operator shall operate the units, controls, and processes as described in Table 1-1 and in accordance with the statements, representations, and supporting data contained in the complete permit application submitted and dated March 23, 2005, February 20, 2007, October 11, 2007, and March 26, 2010, unless modified by the conditions of this permit. The application consists of the application forms, supporting data, and supplementary correspondence. If the owner or operator becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in an application, such information shall be promptly submitted.

Table 1-1 Description of Permitted Units, Operations, and Processes

		Maximum	Control
Identification	Description	Operating Rate	Device
Unit #1	Forty-seven electrically heated extrusion lines. The extruders are either blown film or internal bubble cooling. The extrusion lines exhaust to general ventilation or a vent associated with a particular extruder.	Not applicable	Not applicable
Unit #2	Eleven printers including one Algen 36-inch box printer, two 4-inch Matthews Model 5324, two 12-inch Matthews Model 5124, one 18-inch KIWI, four 18-inch Bellmark, and one 13-inch Matthews.	Not applicable	Not applicable
Unit #3	Sixteen corona treaters.	Not applicable	Not applicable

1.2 Duty to comply. In accordance with ARSD 74:36:04:15(12), the owner or operator shall comply with the conditions of this permit. An owner or operator who knowingly makes a false statement in any record or report or who falsifies, tampers with, or renders inaccurate, any monitoring device or method is in violation of this permit. A violation of any condition in this permit is grounds for enforcement, reopening this permit, permit termination, or denial of a permit renewal application. The owner or operator, in an enforcement action, cannot use the defense that it would have been necessary to cease or reduce the permitted activity to maintain compliance. This permit does not convey any property rights or any exclusive privilege. The owner or operator shall provide any information requested by the Secretary to determine compliance or whether cause exists for reopening or terminating this permit. This permit does not waive compliance with federal, state, or local laws and ordinances.

- 1.3 Property rights or exclusive privileges. The State's issuance of this permit, adoption of design criteria, and approval of plans and specifications does not convey any property rights of any sort, any exclusive privileges, any authorization to damage, injure or use any private property, any authority to invade personal rights, any authority to violate federal, state or local laws or regulations, or any taking, condemnation or use of eminent domain against any property owned by third parties. The State does not warrant that the owner's or operator's compliance with this permit, design criteria, approved plans and specifications, and operation under this permit, will not cause damage, injury or use of private property, an invasion of personal rights, or violation of federal, state or local laws or regulations. The owner or operator is solely and severally liable for all damage, injury or use of private property, invasion of personal rights, infringement of federal, state or local laws and regulations, or taking or condemnation of property owned by third parties, which may result from actions taken under the permit.
- **1.4** Penalty for violating a permit condition. In accordance with SDCL 34A-1, a violation of a permit condition may subject the owner or operator to civil or criminal prosecution, fines of not more than \$10,000 per day per violation, injunctive action, administrative permit action, and other remedies as provided by law.
- **1.5** <u>Inspection and entry</u>. In accordance with SDCL 34A-1-41, the owner or operator shall allow the Secretary to:
- 1. Enter the premises where a regulated activity is located or where pertinent records are stored;
- 2. Have access to and copy any records that are required under this permit;
- 3. Inspect operations regulated under this permit; and/or
- 4. Sample or monitor any substances or parameters for the purpose of assuring compliance.
- **1.6** Severability. In accordance with ARSD 74:36:04:15(11), any portion of this permit that is void or challenged shall not affect the validity of the remaining permit requirements.
- **1.7** Permit termination, modification, or revocation. In accordance with ARSD 74:36:04:27, the Secretary may recommend that the Board of Minerals and Environment terminate, modify, or revoke this permit for violations of SDCL 34A-1 or the federal Clean Air Act or for nonpayment of any outstanding enforcement penalty.

2.0 PERMIT AMENDMENT AND MODIFICATION CONDITIONS

2.1 Permit flexibility. In accordance with ARSD 74:36:04:18, the owner or operator shall have the flexibility to make changes to the source during the term of this permit. The owner or operator shall provide the Secretary written notice at least seven days in advance of the proposed change. The written notice shall include a brief description of the change, the date on which the change is to occur, any change in emissions, and the proposed changes to this permit.

The Secretary will notify the owner or operator whether the change is an administrative permit amendment, a minor permit amendment, or a permit modification. A proposed change that is considered an administrative permit amendment or a minor permit amendment can be completed immediately after the Secretary receives the written notification. The owner or operator must comply with both the applicable requirements governing the change and the proposed permit terms and conditions until the Secretary takes final action on the proposed change.

A proposed change that is considered a modification can not be constructed until the Secretary takes final action on the proposed change. Permit modifications are subject to the same procedural requirements, including public comment, as the original permit issuance except that the required review shall cover only the proposed changes.

- **Administrative permit amendment.** In accordance with ARSD 74:36:04:20, the Secretary has 15 days from receipt of a written notice to verify that the proposed change is an administrative permit amendment. The Secretary considers a proposed change an administrative permit amendment if the proposed change accomplishes one of the following:
- 1. Corrects typographical errors;
- 2. Changes the name, address, or phone number of any person identified in this permit or provides a similar minor administrative change at the source;
- 3. Requires more frequent monitoring or reporting by the source;
- 4. The ownership or operational control of a source changes and the Secretary determines that no other change in this permit is necessary. However, the new owner must submit a certification of applicant form and a written statement specifying the date for transfer of operating permit responsibility, coverage, and liability; or
- 5. Any other change that the Secretary determines to be similar to those requirements in this condition.
- **2.3** Minor permit amendment. In accordance with ARSD 74:36:04:20.04, the Secretary has 90 days from receipt of a written notice to take final action on a minor permit amendment. Final action consists of issuing or denying a minor permit amendment or determining that the proposed change is a permit modification. The Secretary considers a proposed change to be a minor permit amendment if the proposed change:
- 1. Does not violate any applicable requirements;
- 2. Does not involve significant changes to existing monitoring, reporting, or record keeping requirements;
- 3. Does not require or change a case-by-case determination of an emission limit or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis; or
- 4. Does not seek to establish or change a permit term or condition for which the source has assumed to avoid an applicable requirement, a federally enforceable emission cap, or an

alternative emission limit. An alternative emission limit is approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act.

- **2.4 Permit modification.** In accordance with ARSD 74:36:04:21, an owner or operator may apply for a permit modification. A permit modification is any proposed change that is not an administrative amendment or a minor permit amendment. Permit modifications are subject to the same procedural requirements, including public comment, as the original permit issuance except that the required review shall cover only the proposed changes.
- **2.5 Permit revision.** In accordance with ARSD 74:36:04:24, the Secretary may reopen and revise this permit to meet requirements of SDCL 34A-1 or the federal Clean Air Act.
- **Testing new fuels or raw materials.** In accordance with ARSD 74:36:11:04, an owner or operator may request permission to test a new fuel or raw material to determine if it is compatible with existing equipment before requesting a permit amendment or modification. A complete test proposal shall consist of the following:
- 1. A written proposal that describes the new fuel or raw material, operating parameters, and parameters that will be monitored and any testing associated with air pollutant emissions during the test;
- 2. An estimate of the type and amount of regulated air pollutant emissions that will result from the proposed change; and
- 3. The proposed schedule for conducting the test.

The Secretary shall approve, conditionally approve, or deny in writing the test proposal within 45 days after receiving a complete proposal. Approval conditions may include changing the test schedule or pollutant sampling and analysis methods. Pollutant sampling and analysis methods may include, but are not limited to performance testing, visible emission evaluation, fuel analysis, dispersion modeling, and monitoring of raw material or fuel rates.

If the Secretary determines that the proposed change will result in an increase in the emission of a regulated air pollutant or result in the emission of an additional regulated air pollutant, the Secretary shall give public notice of the proposed test for 30 days. The Secretary shall consider all comments received during the 30-day public comment period before making a final decision on the test.

3.0 PERMIT RENEWAL REQUIREMENTS

- **3.1 Permit effective.** In accordance with ARSD 74:36:04:05, this permit shall expire five years from date of issuance unless reopened or terminated for cause.
- **3.2 Permit renewal.** In accordance with ARSD 74:36:04:06, the owner or operator shall submit an application for a permit renewal at least 90 days before the date of permit expiration if

the owner or operator wishes to continue an activity regulated by this permit. The current permit shall not expire and shall remain in effect until the Secretary takes final action on the timely permit renewal application.

3.3 Permit expiration. In accordance with ARSD 74:36:04:16, permit expiration terminates the owner's or operator's right to operate any unit covered by this permit.

4.0 RECORD KEEPING AND REPORTING REQUIREMENTS

Record keeping and reporting. In accordance with ARSD 74:36:04:15(10), the owner or operator shall maintain all monitoring data, records, reports, and pertinent information specified by this permit for five years from the date of sample, measurement, report, or application. The records shall be maintained on site for the first two years and may be maintained off site for the last three years. All records must be made available to the Secretary for inspection. All notifications and reports shall be submitted to the following address:

South Dakota Department of Environment and Natural Resources Air Quality Program 523 E. Capitol, Joe Foss Building Pierre, SD 57501-3181

- **4.2** Signatory Requirements. In accordance with ARSD 74:36:04:07, all applications submitted to the Secretary shall be signed and certified by a responsible official. A responsible official is a responsible corporate officer for a corporation or a general partner or the proprietor for a partnership or sole proprietorship, respectively. All reports or other information submitted to the Secretary shall be signed and certified by a responsible official or a duly authorized representative. A person is a duly authorized representative only if:
- 1. The authorization is made in writing by a person described above and submitted to the Secretary; and
- 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

The responsible official shall notify the Secretary if an authorization is no longer accurate. The new duly authorized representative must be designated prior to or together with any reports or information to be signed by a duly authorized representative.

4.3 <u>Certification statement.</u> All documents required by this permit, including application forms, reports, and compliance certification, must be certified by a responsible official or a duly authorized representative. The certification shall include the following statement:

"I certify that, based on information and belief formed after reasonable inquiry, the statements and information in this document and all attachments are true, accurate, and complete."

Reporting permit violations. In accordance with ARSD 74:36:04:15(10), the owner or operator shall report all permit violations. A permit violation should be reported as soon as possible, but no later than the first business day following the day the violation was discovered. The permit violation may be reported by telephone to the South Dakota Department of Environment and Natural Resources at (605) 773-3151 or by FAX at (605) 773-5286.

A written report shall be submitted within five days of discovering the permit violation. Upon prior approval from the Secretary, the submittal deadline for the written report may be extended up to 30 days. The written report shall contain:

- 1. Description of the permit violation and its cause(s);
- 2. Duration of the permit violation, including exact dates and times; and
- 3. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the permit violation.

The Secretary may waive the written report on a case-by-case basis if the oral report has been received within the reporting period and dependent upon the severity of the permit violation.

5.0 CONTROL OF REGULATED AIR POLLUTANTS

- **Visibility limit.** In accordance with ARSD 74:36:12:01, the owner or operator may not discharge into the ambient air an air contaminant of a density equal to or greater than that designated as 20 percent opacity from any permitted unit, operation, or process listed in Table #1. This provision does not apply when the presence of uncombined water is the only reason for failure to meet the requirement.
- **Visibility exceedances.** In accordance with ARSD 74:36:12:01, an exceedance of the operating limit in permit condition 5.1 is not considered a violation during soot blowing, start-up, shutdown, or malfunctions. A malfunction is described as any sudden and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. A failure caused entirely or in part by poor maintenance, careless operation, preventable equipment breakdown, or any other cause within the control of the owner or operator of the source is not a malfunction and is considered a violation.
- **Circumvention not allowed.** In accordance with ARSD 74:36:04:31, the owner or operator may not install, use a device, or use a means that conceals or dilutes an air emission that would otherwise violate this permit. This includes operating a unit or control device that emits air pollutants from an opening other than the designed stack, vent, or equivalent opening.

5.4 <u>Minimizing emissions</u>. The owner or operator shall at all time, when practicable, maintain and operate all permitted units in a manner that minimizes air pollution emissions.

6.0 PERFORMANCE TESTS

- **6.1 Performance test may be required.** In accordance with ARSD 74:36:11:02, the secretary may request a performance test. A performance test shall be conducted while operating the unit at or greater than 90 percent of its maximum design capacity, unless otherwise specified by the Secretary. A performance test that is conducted while operating at less than 90 percent of its maximum design capacity will result in the operation being limited to the percent achieved during the performance test. The Secretary has the discretion to extend the deadline for completion of performance test if circumstances reasonably warrant.
- **Test methods and procedures.** The owner or operator shall conduct the performance test in accordance with 40 CFR Part 60, Appendix A, 40 CFR Part 63, Appendix A, and 40 CFR Part 51, Appendix M. The Secretary may approve an alternative method if a performance test specified in 40 CFR Part 60, Appendix A, 40 CFR Part 63, Appendix A, and 40 CFR Part 51, Appendix M is not applicable or required.
- **6.3 Submittal of test plan.** In accordance with ARSD 74:36:11:01, the owner or operator shall submit the proposed testing procedures to the Secretary at least 30 days prior to any performance test. The Secretary will notify the owner or operator if the proposed test procedures are approved or denied. If the proposed test procedures are denied, the Secretary will provide written notification that outlines what needs to be completed for approval.
- **Notification of test.** In accordance with ARSD 74:36:11:03, the owner or operator shall notify the Secretary at least 10 days prior to the start of a performance test to arrange for an agreeable test date when the Secretary may observe the test. The Secretary may extend the deadline for the performance test in order to accommodate schedules in arranging an agreeable test date.
- **6.5 Performance test report.** In accordance with ARSD 74:36:05:16.01(9), the owner or operator shall submit a performance test report to the Secretary within 60 days after completing the performance test or by a date designated by the Secretary. The performance test report shall contain the following information:
- 1. A brief description of the process and the air pollution control system being tested;
- 2. Sampling location description(s);
- 3. A description of sampling and analytical procedures and any modifications to standard procedures;
- 4. Test results:
- 5. Quality assurance procedures and results;

- 6. Records of operating conditions during the test, preparation of standards, and calibration procedures;
- 7. Raw data sheets for field sampling and field and laboratory analyses;
- 8. Documentation of calculations;
- 9. All data recorded and used to establish parameters for compliance monitoring; and
- 10. Any other information required by the test method.